

## Federal Maritime Commission

## § 540.6

similar concern found acceptable to the Commission;

(6) A list filed semiannually of all contractual requirements or other encumbrances (and to whom the applicant is bound in this regard) relating to the maintenance of net worth;

(7) All financial statements required to be submitted under this section shall be due within a reasonable time after the close of each pertinent accounting period;

(8) Such additional evidence of financial responsibility as the Commission may deem necessary in appropriate cases.

(e) The following schedule may be applied to determine the minimum coverage required for indemnification of passengers in the event of nonperformance of water transportation for those operators who have not elected to qualify by self-insurance; and can provide evidence (in the form of an affidavit by the operator's Chief Executive Officer or other responsible corporate officer) of a minimum of five years of operation in United States trades, with a satisfactory explanation of any claims for nonperformance of transportation:

Unearned passenger revenue ("UPR")	Required coverage
\$0-\$5,000,000 .....	100% of UPR up to \$5,000,000.
\$5,000,001-\$15,000,000 .....	\$5,000,000 plus 50% of excess UPR over \$5,000,000 subject to an overall maximum of \$5,000,000 per vessel.
\$15,000,001-\$35,000,000 .....	\$10,000,000 plus 25% of excess of UPR over \$15,000,000 subject to an overall maximum of \$5,000,000 per vessel and a \$15,000,000 overall maximum.
Over \$35,000,000 .....	\$15,000,000 overall maximum.

(f) Revenues derived from whole-ship charters, as defined in § 540.2(l), may be exempted from consideration as unearned passenger revenues, on condition that, in the case of a new operator or within 30 days of the execution of the whole-ship charter if the operator has a Performance Certificate for the vessel in question: (1) A certified true

copy of the contract or charter is furnished with the application; (2) The chartering party attests that it will redistribute the vessel's passenger accommodations without charge; and (3) A document executed by the chartering party's Chief Executive Officer or other responsible corporate officer is submitted by which the chartering party specifically acknowledges that its rights to indemnification under section 3 of Public Law 89-777 may be affected by the reduction in section 3, Public Law 89-777, financial responsibility coverage attributable to the exclusion of such funds from the operator's UPR.

[49 FR 36313, Sept. 14, 1984, as amended at 55 FR 1824, Jan. 19, 1990; 57 FR 41891, Sept. 14, 1992; 57 FR 62480, Dec. 31, 1992]

### § 540.6 Surety bonds.

(a) Where financial responsibility is not established under § 540.5, a surety bond shall be filed on Form FMC-132A. Such surety bond shall be issued by a bonding company authorized to do business in the United States and acceptable to the Commission for indemnification of passengers in the event of nonperformance of water transportation. The requirements of Form FMC-132A, however, may be amended by the Commission in a particular case for good cause.

(b) In the case of a surety bond which is to cover all passenger operations of the applicant subject to these rules, such bond shall be in an amount calculated as in the introductory text of § 540.5.

(c) In the case of a surety bond which is to cover an individual voyage, such bond shall be in an amount determined by the Commission to equal the gross passenger revenue for that voyage.

(d) The liability of the surety under the rules of this subpart to any passenger shall not exceed the amount paid by any such passenger, except that, no such bond shall be terminated while a voyage is in progress.

[49 FR 36313, Sept. 14, 1984, as amended at 55 FR 1824, Jan. 19, 1990]